

FILED
Clerk
District Court

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APR 10 2006
For The Northern Mariana Islands
By _____
(Deputy Clerk)

5 Attorneys for Plaintiff

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8 IN THE UNITED STATES DISTRICT COURT
FOR THE
9 NORTHERN MARIANA ISLANDS

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11 ALAN STUART MARKOFF, D.D.S.dba
TOOTHWORKS and OPEN CHOICE,

CIVIL ACTION NO. CV-05-0035

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Plaintiff,

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vs.

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15 TODD KEITH JOHNSON, D.D.S.

JOINT STATEMENT OF THE
PARTIES PURSUANT TO
F.R.C.P. 26(f) and LR 16.2CJ.e.2

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Defendant.

Case Management Conference
Date: April 13, 2006
Time: 9:30 a.m.

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18 The respective counsel for Plaintiff Alan Stuart Markoff and Defendant Todd Keith
19 Johnson have conferred pursuant to F.R.C.P.26(f) and LR 16.2CJ.e.2. The Plaintiff was
20 represented by Mark K. Williams, Esq. and Defendant was represented by David G. Banes,
21 Esq.

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23 The parties make the following joint statement pursuant to their obligation under
F.R.C.P. 26(f) to report on their Rule 26(f) meeting, and also pursuant to their obligation
under LR 16.2CJ.e.2 to file a Case Management Conference Statement:

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25 1. **Disclosures:** Plaintiff has already filed his Pre-Discovery Disclosure Statement on
March 31, 2006. Defendant has yet to submit his initial disclosures pursuant to
F.R.C.P. 26.

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ORIGINAL

1 2. **Timing and sequence of discovery:** Defendant proposes the following discovery
2 schedule:

- 3 A. Trial to commence 12 months from the Case Management Conference;
- 4 B. Phased discovery with "fact" discovery first, and then "expert" discovery
5 second;
- 6 C. 6 months for fact discovery;
- 7 D. a deadline of 2 weeks after the close of fact discovery to file any fact
8 discovery motions, and to designate experts and produce experts' reports
9 pursuant to F.R.C.P. 26(a)(2);
- 10 E. from the fact discovery motions filing deadline, 3 months for expert
11 discovery; and
- 12 F. a deadline of 2 weeks after the close of expert discovery to file any expert
13 discovery motions (this brings the case to a total of 11 months from the
14 April 13, 2006 Case Management Conference).

15 Plaintiff proposes the following discovery schedule:

- 16 A. Trial to commence 6 months from the Case Management Conference;
- 17 B. Discovery shall be completed in 3 months - to include both fact and expert
18 discovery;
- 19 C. a deadline of 2 weeks after the close of discovery to file any discovery and
20 dispositive motions; (this brings the case to a total of 4 1/2 months from the
21 April 13, 2006 Case Management Conference with 1 1/2 months allowance
22 for other pre-trial schedules).

23 3. **ORDERS THAT SHOULD BE ENTERED BY THE COURT PURSUANT TO F.R.C.P. 26(c)
24 or 16(b) or (c):** Regarding F.R.C.P. 26(c), the parties do not anticipate at this time
25 any need for protective orders. Regarding F.R.C.P. 16(c), the parties agree that the
26 Local Rules' pre-trial procedures should be followed. Regarding F.R.C.P. 16(b),
27 LR 16.2CJ.e.2 and the topics set for discussion at the Case Management

1 Conference pursuant to the Court's March 22, 2006 Order re Case Management
2 Conference, the parties state as follows:

- 3 A. *Service of process on parties not yet served.* Not applicable.
- 4 B. *Jurisdiction and venue.* Defendant submits that this case should be
5 stayed as there is an identical case in Texas filed by Defendant.
6 Plaintiff submits that the CNMI is the only appropriate venue for
7 this case and has filed a Motion in the Texas Court to stay the Texas
8 proceeding.
- 9 C. *Track assignment.* Defendant asserts that this case is generally
10 appropriate for the Standard Track, subject to the discovery
11 schedule proposed above. Plaintiff asserts that this case is
12 appropriate for the expedited track subject to his proposed discovery
13 schedule above.
- 14 D. *Anticipated motions.* As noted above, there is already a pending
15 Motion to Stay. Both Plaintiff and Defendant may file dispositive
16 motions.
- 17 E. *Anticipated or remaining discovery, including limitations on
discovery.* Please refer to the proposed discovery schedule set forth
18 above. All parties anticipate the use of experts.
- 19 F. *Further proceedings and scheduling of dates.* The parties have no
20 comments here other than what is discussed above or below in this
21 joint statement.
- 22 G. *Appropriateness of special procedures.* Not applicable.
- 23 H. *Modification of standard pre-trial procedures.* The parties agree
24 that the standard pre-trial procedures under the Local Rules are
25 appropriate in this case.
- 26 I. *Settlement prospects.* The parties intend to discuss settlement.

J. *Any other matter conducive to the just, efficient resolution of the case.* Not applicable.

K. *Setting of date for:*

1. Joinder of all parties. Defendant proposes 120 days.
Plaintiff proposes 30 days.
 2. Motions to amend. Defendant proposes 120 days.
Plaintiff proposes 30 days.
 3. Discovery cut-off. Defendant proposes 6 months for fact discovery, then 2 weeks for motions regarding fact discovery, then 3 months for expert discovery and then 2 weeks for motions regarding expert discovery, as discussed above. Plaintiff proposes that discovery shall be completed in 3 months - to include both fact and expert discovery.
 4. Status conferences. As requested by the parties or set by the Court.
 5. Discovery motions hearing date. Pursuant to the Local Rules and the fact and expert discovery motions cut-off dates as proposed above.
 6. Dispositive motions filing cut-off. Defendant proposes 60 days before trial. Plaintiff proposes 2 weeks after discovery cut-off.
 7. Dispositive motions hearing date. Pursuant to the Local Rules and the dispositive motions filing cut-off.
 8. Settlement conference. As requested by the parties or set by the Court.

- 1 9. Joint pre-trial order. 14 days before trial.
2 10. Final pre-trial conference. 7 days before the trial.
3 11. Trial. Defendant proposes 12 months from the Case
4 Management Conference, and estimated to last
5 approximately 4-5 days. Plaintiff proposes 6
6 months from the Case Management Conference, to
7 last approximately 3 - 5 days.

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9 AGREED THAT THIS STATEMENT ACCURATELY REFLECTS THE
10 POSITION OF THE PARTIES.

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13 DAVID G. BANES, Esq.
14 Counsel for the Defendant
15 Todd Keith Johnson

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17 Date: 4-7-06

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19 
20 MARK K. WILLIAMS, Esq.
21 Counsel for the Plaintiff
22 Alan Stuart Markoff

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24 Date: 4.7.06